

Application No. 09/941505
Page 5

Amendment
Attorney Docket No. E14.2B-9861-US01

Remarks

Claim Objections

Claims 2-4, 6 and 10-14 have been objected to under 37 C.F.R. §1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. The Office Action asserts that claims 2-4 and 11 limit the gas generated by the composition of claim 1 or the composition itself, but that the composition has not been positively recited in claim 1 and is not therefore required by the claim.

The Office Action further asserts that with respect to claims 6, 10 and 12-14, the container of claim 1 has not been positively recited so attempts to further limit the container are improper.

Claim 1, from which claims 2-4, 6 and 10-14 depend, has been amended to positively recite "a container permeable to water or water vapor, holding a composition which generates an antimicrobially active gas upon exposure to water or water vapor."

Thus, claim 1 now provides proper antecedent basis for further limitations on the container, composition or gas.

No new matter has been added.

Applicants have canceled claims 2, 6 and 12.

Applicants respectfully request withdrawal of the objection to claims 3-4, 10-11 and 13-14.

Claim Rejections

35 U.S.C. §112, second paragraph

Claims 15-17 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action asserts that "[i]n claim 15, 'the refrigeration unit' lacks positive antecedent basis as no such element has been recited in claim 1. In claim 16, both 'sachet holder' and 'said refrigeration unit' lack positive antecedent basis for the reason above. In claim 17, both 'said drawer' and 'the sachet' lack positive antecedent basis for the reason above."

Application No. 09/941505
Page 6

Amendment
Attorney Docket No. E14.2B-9861-US01

Claims 15-17 have been amended.

Claim 15 has been amended to correctly refer to the unit of claim 1.

Claim 16 has been amended to depend from claim 14.

Claim 17 has been canceled.

No new matter has been added.

Applicants respectfully request withdrawal of the rejection of claims 15-17 under 35 U.S.C. §112, second paragraph.

35 U.S.C. §102(b)

Claims 1-4, 11, 14 and 15 have been rejected under 35 U.S.C. §102(b) as being anticipated by Dickson (U.S. Patent No. 4,059,048).

The Office Action notes that the phrase "to permit placement....to water or water vapor" is considered to be an intended use of the access port and does not provide positive antecedent basis for further limitations on the container, composition or gas.

Applicants have amended claim 1 to positively "a container permeable to water or water vapor, holding a composition which generates an antimicrobially active gas upon exposure to water or water vapor." Thus, claim 1 now provides proper antecedent basis for further limitations on the container, composition or gas.

The Office action asserts that "Dickson teaches a unit 10 (silo) having an access port 30 openable from the exterior of the unit and a holder 47 for sachets 49, wherein the holder 47 retains the sachets 49 within the unit at a location exposed to the ambient air within the interior. The sachets 49 each contain a solid which generates a gas upon exposure to moisture."

Claim 1 has been amended to recite that the unit claimed therein include a container permeable to water or water vapor, holding *a composition which generates an antimicrobially active gas which is a halogen or chlorine dioxide upon exposure to water or water vapor.*

Applicants submit that Dickson describes a means for storing and fumigating bulk agricultural goods such as grains (Field of the Invention). The method and apparatus utilizes a solid chemical such as commercially available for producing phosphine gas (Summary of the Invention, 1st line). Dickson fails to suggest the use of either halogen or chlorine dioxide gas for

Application No. 09/941505
Page 7

Amendment
Attorney Docket No. E14.2B-9861-US01

storing and fumigating bulk agricultural goods such as grains.

Applicants therefore submit that claim 1 as amended is not anticipated by
Dickson.

Claim 2 has been canceled.

Claims 3-4, 11, 14 and 15 depend from claim 1 and are patentable for at least the reasons that claim 1 is patentable. Applicants respectfully request withdrawal of the rejection of claims 1-4, 11, 14 and 15 under 35 U.S.C. §102(b) as anticipated by Dickson (U.S. Patent No. 4,059,048).

Claims 1, 5 and 20 have been rejected under 35 U.S.C. §102(b) as being anticipated by Meyler et al (U.S. Patent No. 5,225,172). The Office action asserts that "Meyler et al teaches a unit 10 comprising an enclosed space and having an access drawer 20 for holding